

Last revised 8/1/2015

**UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY**

In Re:

Case No.: 13-12101

DOMENICO LOMUSCIO,

Judge: SHERWOOD

Debtors

Chapter: 13

**Chapter 13 Plan and Motions**

☐ Original

☒ **Modified/Notice Required**

☒ **Discharge Sought**

☒ **Motions Included**

☐ Modified/No Notice Required

☐ No Discharge Sought

Date: August 28, 2017

THE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE

**YOUR RIGHTS WILL BE AFFECTED**

You should have received from the court a separate Notice of the Hearing on Confirmation of Plan, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice.

**This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice.**

**YOU SHOULD FILE A PROOF OF CLAIM BY THE DEADLINE STATED  
IN THE NOTICE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN  
THAT MAY BE CONFIRMED, EVEN IF THE PLAN REFERS TO YOUR CLAIM**

**Part 1 Payment and Length of Plan**

a. The debtor shall pay \$446 per month to the Chapter 13 Trustee, starting on September 1, 2017 for approximately 6 months.

b. The debtor shall make plan payments to the Trustee from the following sources:

☒ Future earnings

☒ Other sources of funding (describe source, amount and date when funds are available):

\$9,132.07 Paid in through September 30, 2017; Contribution of non-exempt proceeds from Post-petition Slip and Fall accident that occurred on 11/13/2015

**A portion of income tax refunds**

c. use of real property to satisfy obligations:

☐ Sale of real property

Description:

Proposed date for completion: \_\_\_\_\_

☐ Refinance of real property:

Description:

☐ Loan Modification with respect to mortgage encumbering property:

Description:

Proposed date for completion:

d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

e. ☐ Other information that may be important relating to the payment and length of plan:

### **Part 2 Adequate Protection**

a. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to \_\_\_\_\_ (creditor).

b. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to: \_\_\_\_\_ (creditor).

### **Part 3 Priority Claims (Including Administrative Expenses)**

All allowed priority claims will be paid in full unless the creditor agrees otherwise

Creditor	Type of Priority	Amount to be Paid
MINION & SHERMAN	ATTORNEYS FEES	\$2,500.00 (original retainer) + any Supplemental Fees approved by the court and \$900.00 in estimated Supplemental Fees subject to court approval

#### **Part 4 Secured Claims**

##### **a. Curing Default and Maintaining Payments**

The Debtor shall pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)

##### **b. Modification**

1.) The Debtor values collateral as indicated below. If the claim may be modified under Section 1322 (b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral." plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

**NOTE: A modification under the Section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.**

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid
PNC BANK (2 <sup>nd</sup> Mortgage)	199 A N. Beverwyck Rd. Apt.#9 Lake Hiawatha, New Jersey 07054	\$22,762.00	\$118,000.00	\$146,929.00	\$0.00	n/a	\$0.00

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

**c. Surrender**

Upon confirmation, the stay is terminated as to surrendered collateral. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt

**d. Secured Claims Unaffected by the Plan**

The following secured claims are unaffected by the Plan:  
CHASE MANHATTAN MORTGAGE (1<sup>ST</sup> MORTGAGE)

**e. Secured Claims to be Paid in Full Through the Plan.**

Creditor	Collateral	Total Amount to be Paid Through the Plan
MANOR PARK CONDO ASSOC.	199 A N. Beverwyck Rd. Apt.#9 Lake Hiawatha, New Jersey 07054	\$3,726.00

**Part 5 Unsecured Claims**

**a. Not Separately classified** allowed non-priority unsecured claims shall be paid:

- ☐ Not less than \$ \_\_\_\_\_ to be distributed *pro rata*  
☐ Not less than \_\_\_\_\_ percent  
☒ *Pro Rata* distribution from any remaining funds

**b. Separately classified** unsecured claims shall be treated as follows:

Creditor	Basis For Separate Classification	Treatment	Amount to be Paid
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### **Part 6 Executory Contracts and Unexpired Leases**

All executory contracts and unexpired leases are rejected, except the following, which are assumed:

Creditor	Nature of Contract or Lease	Treatment by Debtor
American Honda Finance	Lease on 2012 Honda Accord	Assumed

### **Part 7 Motions**

**NOTE: All plans containing motions must be served on all potentially affected creditors, together with a Chapter 13 Plan Transmittal Letter, within the time and in the manner set forth in D.N.J. LBR 3015-1. A Proof of Service must be filed with the Clerk of Court when the Plan and Transmittal Letter are served.**

**Where a motion to avoid liens or partially avoid liens has been filed in the plan, a proof of claim that asserts a secured claim that is greater than the amount to be paid serves as opposition to the motion, and serves as an objection to confirmation. The proof of claim shall be served in accordance with D.N.J. LBR 3015-6(a). The creditor shall a proof of service prior to the scheduled confirmation hearing. In order to prosecute the objection, the creditor must appear at the confirmation hearing, which shall be the hearing on the motion. Failure to appear to prosecute the objection may result in the motion being granted and the plan being confirmed pursuant to the terms as set forth in the plan.**

#### **a. Motion to Avoid Liens Under 11. U.S.C. Section 522(f).**

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All other Liens Against the Property	Amount of Lien to be Avoided

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**b. Motion to Avoid Liens and Reclassify Claim From Secured to Completely Unsecured**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above.

Creditor	Collateral	Amount of Lien To be Reclassified
PNC BANK (2 <sup>nd</sup> Mortgage)	199 A N. Beverwyck Rd. Apt.#9 Lake Hiawatha, New Jersey 07054	Entire Lien estimated to be \$22,762.00

**c. Motion to partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above.

Creditor	Collateral	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured

**Part 8 Other Plan Provisions**

**a. Vesting of Property of the Estate**

☒ Upon confirmation

☐ Upon discharge

**b. Payment Notices**

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

**c. Order of Distribution**

The Trustee shall pay allowed claims in the following order:

- 1) Trustee commissions
- 2) Attorneys Fees
4. Secured Claims
- 5) General Unsecured Claims

**d. Post-Petition Claims**

The Trustee ☐ is ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition client.

**Part 9 Modification**

If this modified a Plan previously filed in this case, complete the information below.

Date of Plan being Modified: 3/24/2017

Explain below <b>why</b> the plan is being modified:  The plan is being modified because Debtor obtained a loan modification with respect to his first mortgage and the Order approving the loan modification required that a modified plan and budget be filed	Explain below <b>how</b> the plan is being modified:  The plan is being modified to change the treatment of the first mortgage holder as Debtor has received a loan modification
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Are Schedules I and J being filed simultaneously with this Modified Plan? ☒ Yes ☐ No

**Part 10 Sign Here**

The Debtor(s) and the attorney for the Debtor (if any) must sign this Plan.

Date: 8/29/2017

/s/ Scott D. Sherman  
Attorney for the Debtor

I certify under penalty of perjury that the foregoing is true and correct.

Date: 8/29/2017

/s/ Domenico Lomuscio  
Debtor

Date:

\_\_\_\_\_  
Joint Debtor

## Imaged Certificate of Notice Page 8 of 9

United States Bankruptcy Court  
District of New JerseyIn re:  
Domenico Lomuscio  
DebtorCase No. 13-12101-JKS  
Chapter 13**CERTIFICATE OF NOTICE**

District/off: 0312-2

User: admin  
Form ID: pdf901Page 1 of 2  
Total Noticed: 43

Date Rcvd: Aug 30, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 01, 2017.

db +++DOMENICO LOMUSCIO, 199A N BEVERWYCK RD APT A9, LAKE HIAWATHA NJ 07034-1400  
(address filed with court: Domenico Lomuscio, 199A N. Beverwyck Road, Apt #9,  
Lake Hiawatha, NJ 07034)

cr +Manor I Condominium Association, Inc c/o Gervin Re, 1280 Route 46,  
Parsippany, NJ 07054-4911

513652888 ++BANK OF AMERICA, PO BOX 982238, EL PASO TX 79998-2238  
(address filed with court: Bank Of America, Po Box 982235, El Paso, TX 79998)

513652894 +Charles Calantome DMD, 239 New Road, Building C, Parsippany, NJ 07054-4274

513652895 +Chase, Po Box 15298, Wilmington, DE 19850-5298

513652896 +Chase Manhattan Mortgage, Attn: Correspondence Mail MC LA4-5555, 700 Kansas Ln,  
Monroe, LA 71203-4774

513744494 +Credit First NA, Po Box 818011, Cleveland, Oh 44181-8011

513652897 +Credit First/CFNA, Bk13 Credit Operations, Po Box 818011, Cleveland, OH 44181-8011

513675872 +Department Stores National Bank/Bloomington, Bankruptcy Processing, Po Box 8053,  
Mason, OH 45040-8053

513675873 +Department Stores National Bank/Macys, Bankruptcy Processing, Po Box 8053,  
Mason, OH 45040-8053

513652898 +Dsnb Bloom, Macy's Bankruptcy Dept., 9111 Duke Blvd., Mason, OH 45040-8999

513652899 +Dsnb Macys, Po Box 8218, Mason, OH 45040-8218

513778838 FIA CARD SERVICES, N.A., 4161 Piedmont Parkway, NC4 105 03 14, Greensboro, NC 27410

513652902 +JCP&L, PO 76 S. Main Street, Akron, OH 44309

513844425 #+Jersey Central Power & Light, 331 Newman Springs Rd., Building 3, Red Bank, NJ 07701-6771

513652903 +Manor I Condominium Association, 1280 Route 46, Parsippany, NJ 07054-4914

513696547 +PNC BANK, PO BOX 94982, CLEVELAND, OH 44101-4982

513652904 +Pnc Bank, Po Box 5570, Cleveland, OH 44101-0570

513652905 +Quest, P.O. Box 64196, Baltimore, MD 21264-0001

513652908 Quest Diagnostics Incorporated, PO Box 64196, Baltimore, MD 21264-4196

513652909 Quest Diagnostics Medical Lab Tests, c/o Dymacol, Inc., PO Box 9017, Oceanside, NY 11572

513652910 +Randy Spector DO, 124 N. Beverwyck Rd., Lake Hiawatha, NJ 07034-2205

513996573 +Vericrest Financial, Inc, c/o Zucker Goldberg & Ackerman, 200 Sheffield Street, Suite 301,  
Mountainside, NJ 07092-2315

513652911 +Vzw Ne, Attention: Verizon Wireless Department, Po Box 3397, Bloomington, IL 61702-3397

514003747 eCAST Settlement Corporation, POB 29262, New York NY 10087-9262

514003748 eCAST Settlement Corporation, POB 29262, New York NY 10087-9262

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

smg E-mail/Text: usanj.njbankr@usdoj.gov Aug 30 2017 23:12:20 U.S. Attorney, 970 Broad St.,  
Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534

smg +E-mail/Text: ustpreion03.ne.ecf@usdoj.gov Aug 30 2017 23:12:18 United States Trustee,  
Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100,  
Newark, NJ 07102-5235

cr E-mail/Text: ebnbankruptcy@ahm.honda.com Aug 30 2017 23:12:26  
American Honda Finance Corporation, 3625 W Royal Lane Ste 200, Irving, TX 75063

513652887 E-mail/Text: ebnbankruptcy@ahm.honda.com Aug 30 2017 23:12:26 American Honda Finance,  
Po Box 168088, Irving, TX 75016

513692614 E-mail/Text: ebnbankruptcy@ahm.honda.com Aug 30 2017 23:12:26  
American Honda Finance Corporation, National Bankruptcy Center, P.O. Box 168088,  
Irving, TX 75016-8088

513771293 E-mail/PDF: EBN\_AIS@AMERICANINFOSOURCE.COM Aug 30 2017 23:15:13  
American InfoSource LP as agent for, Verizon, PO Box 248838,  
Oklahoma City, OK 73124-8838

513652890 +E-mail/Text: bcwrtoff@cablevision.com Aug 30 2017 23:12:59 Cablevision, 1111 Stewart Ave,  
Bethpage, NY 11714-3581

513652889 E-mail/Text: bcwrtoff@cablevision.com Aug 30 2017 23:12:59 Cablevision, PO Box 371378,  
Pittsburgh, PA 15250-7378

513652891 +E-mail/Text: bcwrtoff@cablevision.com Aug 30 2017 23:12:59 Cablevision,  
200 Jericho Quadrangle, Jericho, NY 11753-2701

513652892 +E-mail/Text: bankruptcy\_notifications@ccsusa.com Aug 30 2017 23:12:59  
Cablevision of New Jersey, c/o Credit Collection Services, Two Wells Avenue,  
Newton Center, MA 02459-3225

513652893 +E-mail/Text: bcwrtoff@cablevision.com Aug 30 2017 23:12:59 Cablevision, PO Box 371897,  
Pittsburgh, PA 15250-7897

514089974 +E-mail/Text: ECMBKMail@Caliberhomeloans.com Aug 30 2017 23:13:08 Caliber Home Loans, Inc.,  
13801 Wireless Way, Oklahoma City, OK 73134-2500

514089975 +E-mail/Text: ECMBKMail@Caliberhomeloans.com Aug 30 2017 23:13:08 Caliber Home Loans, Inc.,  
13801 Wireless Way, Oklahoma City, OK 73134, Caliber Home Loans, Inc.,  
13801 Wireless Way, Oklahoma City, OK 73134-2500

513652901 +E-mail/PDF: gecsed@recoverycorp.com Aug 30 2017 23:07:39 Gecrb/toys, Po Box 965005,  
Orlando, FL 32896-5005

513998281 E-mail/PDF: PRA\_BK2\_CASE\_UPDATE@portfoliorecovery.com Aug 30 2017 23:15:20  
Portfolio Recovery Associates, LLC, c/o Chase Bank Usa, N.a., POB 41067,  
Norfolk VA 23541



District/off: 0312-2

User: admin  
Form ID: pdf901

Page 2 of 2  
Total Noticed: 43

Date Rcvd: Aug 30, 2017

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center (continued)

513953335 E-mail/PDF: PRA\_BK2\_CASE\_UPDATE@portfoliorecovery.com Aug 30 2017 23:15:04  
Portfolio Recovery Associates, LLC, c/o TOY R US CREDIT CARD, POB 41067,  
Norfolk VA 23541  
513652906 E-mail/Text: bkrpt@retrievalmasters.com Aug 30 2017 23:12:17 Quest Diagnostics,  
c/o AMCA Collection Agency, PO Box 1235, Elmsford, NY 10523-0935  
TOTAL: 17

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*  
513996574\* +Vericrest Financial, Inc, c/o Zucker Goldberg & Ackerman, 200 Sheffied Street, Suite 301,  
Mountainside, NJ 07092-2315  
513652900 ##+Frank Lomuscio, 159 Ball Ave, Parsippany, NJ 07054-2126  
513652907 ##+Quest Diagnostics, PO Box 71304, Philadelphia, PA 19176-1304  
TOTALS: 0, \* 1, ## 2

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address  
pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

Addresses marked '++++' were corrected as required by the USPS Locatable Address Conversion System (LACS).

Addresses marked '#' were identified by the USPS National Change of Address system as requiring an update.  
While the notice was still deliverable, the notice recipient was advised to update its address with the court immediately.

Addresses marked '##' were identified by the USPS National Change of Address system as undeliverable. Notices will no longer be delivered by the USPS to these addresses; therefore, they have been bypassed. The debtor's attorney or pro se debtor was advised that the specified notice was undeliverable.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Sep 01, 2017

Signature: /s/Joseph Speetjens

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## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on August 29, 2017 at the address(es) listed below:

Andrew L. Spivack on behalf of Creditor Caliber Home Loans, Inc. nj.bkecf@fedphe.com  
Brian C. Nicholas on behalf of Creditor Caliber Home Loans, Inc. bnicholas@kmlawgroup.com,  
bkgroup@kmlawgroup.com  
Eric P. Kelner on behalf of Creditor Manor I Condominium Association, Inc c/o Gervin Realty,  
Inc. ekelner@hillwallack.com, fmanmann@hillwallack.com;Ootarsi@HillWallack.com  
Jennifer R. Gorchow on behalf of Creditor Caliber Home Loans, Inc. nj.bkecf@fedphe.com  
Joel A. Ackerman on behalf of Creditor JPMORGAN CHASE BANK, NATIONAL ASSOCIATION  
jackerman@zuckergoldberg.com  
Joel A. Ackerman on behalf of Creditor JPMorgan Chase Bank, National Association  
jackerman@zuckergoldberg.com  
Joel A. Ackerman on behalf of Creditor Vericrest Financial, Inc jackerman@zuckergoldberg.com  
John R. Morton, Jr. on behalf of Creditor American Honda Finance Corporation  
ecfmail@mortoncraig.com, mortoncraige@gmail.com;mhazlett@mortoncraig.com  
Marie-Ann Greenberg magecf@magtrustee.com  
Scott D. Sherman on behalf of Debtor Domenico Lomuscio ssherman@minionsherman.com  
TOTAL: 10